

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NASDI, LLC,

Plaintiff

- against -

SKANSKA KOCH INC. KIEWIT INFRASTRUCTURE
CO. (JV) d/b/a SKANSKA KIEWIT JV,

Defendant(s)

Case No. 1:17-CV-03578
(DLC-SLC)

STIPULATED JUDGMENT AND ORDER

Plaintiff, NASDI, LLC ("NASDI") commenced this action by filing the complaint herein on May 12, 2017. Defendants Skanska Koch, Inc. ("Skanska Koch"), Kiewit Infrastructure Co., (JV) d/b/a Skanska Kiewit JV ("SKK") were served with the summons and complaint and filed an answer with counterclaims on July 31, 2017. NASDI replied on August 21, 2017.

Pursuant to an Opinion and Order of this Court dated September 28, 2020, SKK was granted summary judgment dismissing NASDI's claims and on SKK's counterclaims. The Court further ordered that the case proceed to trial on SKK's counterclaims for indemnification and damages under SKK's breach of contract claim.

Pursuant to an Opinion and Order of this Court dated November 15, 2022, this Court denied plaintiff's motion for reconsideration.

Pursuant to the terms of a written Settlement Agreement by and between the parties dated March 7, 2023, NASDI has agreed to entry of this Stipulated Judgment and Order ("Order") to resolve SKK's counterclaims against it in this Action, avoid a trial on SKK's

counterclaims for indemnification and damages under SKK's breach of contract claim, and allow for an appeal of the Court's Opinions and Orders dated September 28, 2020 and November 15, 2022 prior to any enforcement on this Judgment.

THEREFORE, on the joint motion of NASDI and SKK, it is hereby ORDERED, ADJUDGED AND DECREED as follows.

FINDINGS

1. This Court has jurisdiction over the subject matter and the parties pursuant to 28 U.S.C. §1332.

2. Venue in this matter is proper in the Southern District of New York.

3. SKK's first counterclaim alleges that SKK incurred additional and increased costs of construction by reason of NASDI's breach of contract. SKK's second counterclaim is for contractual indemnification for damages caused by NASDI and for SKK's reasonable attorneys' fees and costs.

4. NASDI agrees that Two Million Three Hundred and Fifty Thousand Dollars (\$2,350,000.00) is the fair and reasonable compromise of SKK's alleged damages on its first and second counterclaims, inclusive of attorneys' fees and costs and interest through the date of this Order.

5. NASDI retains the right to appeal the Order of this Court dated September 28, 2020, and the Order of this Court dated November 15, 2022, to the extent allowed by applicable law, and retains the right to appeal this Judgment to the extent it is based on the aforementioned order.

6. NASDI has agreed to this Stipulated Judgment and Order freely and without coercion.

7. The parties acknowledge that they have read the provisions of this Stipulated Judgment and Order and are prepared to abide by them.

IT IS ORDERED ADJUDGED AND DECREED that judgment in the amount of \$2,350,000 is hereby entered against NASDI and in favor of Skanska Koch Inc. – Kiewit Infrastructure Co., a Joint Venture.

IT IS FURTHER ORDERED that each party shall bear its own costs and attorneys' fees incurred in connection with this action through the date of this Stipulated Judgment and Order.

RETENTION OF JURISDICTION

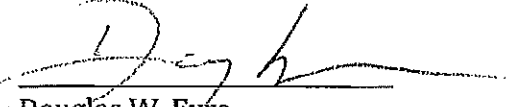
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purpose of enabling the parties to apply to the Court at any time for such further orders and directives as may be necessary or appropriate for the interpretation or modification of this Order, or for the enforcement of compliance therewith.

FINAL JUDGMENT AND ORDER


The parties, by their respective counsel, hereby consent to entry of the foregoing Order which shall constitute a final judgment and order in this matter.

Dated: March 7, 2023

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So ordered. Justice Gite
3/10/23